

## REMARKS

Claims 1-7 are pending in the application. Reconsideration and allowance of claims 1-7 in light of the arguments herein are respectfully requested.

### Prior art rejections

Claims 1-3 and 5-6 stand rejected under 35 U.S.C. § 102(a) as being anticipated by McLeodUSA. Further, claims 4 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McLeodUSA. Regarding independent claims 4 and 7, the office action asserts that McLeodUSA discloses a method and apparatus of generating a billing record for telephone subscribers comprising the steps of receiving a transaction record (at the end of each month, McLeod compiles long distance calls); processing the transaction data by a plurality of rate plans (McLeod compares and rates all of your long distance calls against the most popular plans); comparing the toll amounts from each of the plurality of rate plans to determine a lowest toll amount (the amount of \$322.81 is based on the lowest plan charges, the MCI plan); deducting an amount x from the lowest toll amount to form a final toll amount (noting the term agreements and specified percentage discounts of 3%, 6%, or 9% for total usage over \$75.00, \$250.00 or \$750.00, respectively); and generating the billing record for the telephone subscribers based on the final toll amount.

With respect to claims 2-3, the office action asserts that the McLeod discloses that a transaction record include transaction data corresponding to a plurality of telephone calls by the subscriber during a time period (at the end of each month, McLeod compiles all long distance calls).

With respect to claims 4 and 7, the office action acknowledges that McLeod does not teach that the transaction data includes time of day, data, duration and destination of the call. However, the examiner takes official notice that it was “notoriously well known in the art of telephone billing to monitor telephone activities and generate a call detail record (CDR) for each monitored call.” Further, the examiner asserts that it would have been obvious to one of ordinary skill in the art to generate the CDR including the specified information.

Reconsideration of this rejection is respectfully requested. Page 2 of McLeod discloses “the Raterizer.” “At the end of each month, McLeodUSA compiles all or your long distance calls together and then compares and rates them against the most popular plans of AT&T, MCI and Sprint. You receive the plan that has the lowest total charges.” In an example, the subscriber’s “lowest plan charges” are \$322.81, corresponding to the MCI Preferred plan charge for the month. Thus, “the Raterizer” selects as a subscriber’s charges the charges that would be assessed by the lowest-cost competing plan. The claim 1 limitation of “deducting a constant amount from the lowest toll amount” is absent from “The Raterizer” product of McLeodUSA.

At page 6, McLeod discloses and additional product of McLeodUSA. “McLeodUSA Long Distance Term Agreements: Sign up for the 18-month, 36-month, or 60-month Term Agreement and receive an additional discount off your McLeodUSA long distance bill.” Exemplary charges are shown in a table.

It is respectfully submitted that McLeod actually teaches deducting a percentage amount rather than a **constant amount** as required by claim 1. Clearly, the amount deducted under McLeod’s Term Agreements will vary by the monthly bill. First, reading across the top of the table on page 5, the percentage amount deducted varies by the amount of the monthly bill. If the monthly bill is over \$750, the discount amount is 15 percent of the monthly bill; if the monthly bill is over \$250, the discount amount is 12 percent of the monthly bill, and so on, in the first row (“60-month Term”) of the table.. Further, reading down the left hand side of the table, the percentage amount deducted varies by the term of the agreement. A 60 month term yields a 15 percent discount; a 36 month term yields a 12 percent discount from the monthly bill, and so, in the first column (“Over \$750”) of the table. Still further, within each location of the table, the amount deducted will be a percentage of the monthly bill. Thus, if the 15 percent discount applies, in the first row, first column of the McLeod table, \$150 will be deducted from a monthly bill of \$1000 and \$225 will be deducted from a monthly bill of \$1500. Accordingly, McLeod teaches use of a variable percentage rather than deducting a constant amount from the lowest toll amount as required by claim 1.

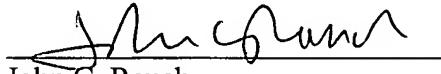
Accordingly, claim 1 recites limitations not shown described or suggested by McLeod. Reconsideration and withdrawal of the 35 U.S.C. §102 (a) rejection is respectfully requested. Claims 27-32 are dependent from claim 1 and are allowable for the same reasons. Independent

Application no. 10/823,992  
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claim 5 recites "forming a final toll amount which is a fixed amount less than the amount that would be billed in accordance with the lowest-cost rate plan," which is similarly not disclosed or suggested by McLeod and is submitted to be similarly allowable. Claims 6 and 7 are dependent from claim 5 and are allowable for the same reasons. Withdrawal of the rejection of these claims is respectfully requested as well.

With this response, the application is believed to be in condition for allowance. Should the examiner deem a telephone conference to be of assistance in advancing the application to allowance, the examiner is invited to call the undersigned attorney at the telephone number below.

Respectfully submitted,

  
John G. Rauch  
Registration No. 37,218  
Attorney for Applicant

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BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200